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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,408	01/26/2004	Troy S. Tyler	2439.0010001	4531
26111 7590 01/18/2007 STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER LE, LINH GIANG	
			ART UNIT 3626	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		01/18/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/18/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

fadkt@skgf.com

Office Action Summary	Application No.	Applicant(s)	
	10/763,408	TYLER ET AL.	
	Examiner	Art Unit	
	Linh-Giang Le	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>041904</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed on 5/8/06.

Claims 1-18 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Examiner maintains that claims 1, 4-8, 11-15 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Fey (US 2002/0052761) for the same reasons given in the previous Office Action.

(A) As the claims have not been amended, Applicant's arguments with respect to the aforementioned rejection are addressed below in the section entitled "Response to Argument."

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Examiner maintains that claims 2-3, 9-10, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fey (US 2002/0052761) for the same reasons give in the previous Office Action.

(A) As the claims have not been amended, Applicant's arguments with respect to the aforementioned rejection are addressed below in the section entitled "Response to Argument."

Response to Arguments

6. Applicant's arguments filed 5/8/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the Amendment filed 5/8/06.

(A) At page 9 of the 5/8/06 Amendment, Applicant argues that Fey neither teaches nor suggests "obtaining a test sample from the patient identified only by the Alias ID." Examiner respectfully disagrees.

In response, Examiner refers to Fey, Pg. 3 Para. 22, to show that Fey teaches first collecting information from a client and assigning a "unique client

identifier" (reads on "alias id.") The next step is conducting a medical screening on the client. Further, Fig. 1 shows that the "collect information" step comes before the "conduct tests" step. As stated earlier, the assignment of the "unique client identifier" is part of the "collect information" step that comes before the "conduct tests" step. Fey, Pg. 3 Para. 28, also teaches assigning the unique client identifier then conducting a genetic test. Therefore, Fey does teach assigning a "unique identifier" to a consumer *prior* to performing tests on a DNA sample.

(B) Applicant next argues Fey does not teach or suggest "providing the test results to the patient using the Alias ID and Password." Examiner again respectfully disagrees.

In response, Examiner refers to Pg. 3, Para. 22, to show that Fey teaches assigning a "unique client identifier" first and then generating a report for the client according to *said* analysis. Thus the report generation is dependent upon the assignment of a "unique client identifier." Fey, Pg. 6 Para. 58, protecting the consumer's privacy and allowing access to the records only in an anonymous manner that protects the consumer from any chance of personal information becoming public. One of ordinary skill in the art would interpret this as using an "alias id" or a "unique client identifier" to obtain results.

Fey also teaches using an assigned password to access test results downloaded directly from the database (Fey; Pg. 8, Para. 82). It should be noted that the "unique client identifier" is also part of the database including the test results

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(Fey; Pg. 3, Para. 23) which would be necessary to get the proper results associated with a client.

Dependent claims 4-7 are likewise anticipated by Fey for the same reasons as independent claim 1 from which it depends and further in view of their own respective features.

(C) Applicant next argues Fey does not teach or suggest, “providing a test sample for testing, wherein the test sample is identified by the Alias ID” or “obtaining test results using the Alias ID and the Password” as recited in independent claim 8. Fey does teach and suggest each limitation of claim 8, as the same limitations are taught by claim 1 and the reasons are incorporated from above.

Dependent claims 11-14 are likewise anticipated by Fey for the same reasons as independent claim 8 from which they depend and further in view of their own respective features.

(D) On page 12, Applicant again argues that Fey does not teach or suggest an anonymous testing kit that includes either an Alias ID or a Password. Fey does teach this feature as the above responses are incorporated herein. The rejections of claims 15 and 18 are not withdrawn.

(E) On page 12, Applicant’s next argument is that the Official Notice taken by Examiner that “it is well-known that it would take [six or more] characters to come up with a unique client identifier” and that “it is well-known that it would take [four

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or more] characters to come up with a password to ensure access to the records” does not provide the missing teachings or suggestions with respect those claims. Examiner will provide those missing teachings to support the taking of Official Notice.

With respect to the “unique client identifier” having six or more characters, Fey, itself teaches a “unique 14-digit identification number” rather than a more traceable identifier (Fey; Pg. 7; Para. 64). As for a password with four or more characters, this is well-known in the art as evidenced by US Patent No. 5,965,860 to Oneda. In particular Oneda teaches an input of a “password of four digits for a password input frame” (Oneda; Pg. 12; lines 23-30). Thus, these two references provide the missing teachings to support the taking of Official Notice.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art, Oneda (5,965,860), provides evidentiary support for the Examiner's Official Notice.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory

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action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Linh-Giang Le whose telephone number is 571-272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LLe



JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER